

1 ENVIRONMENTAL AND PUBLIC PROTECTION CABINET

2 Department For Environmental Protection

3 Division for Air Quality

4 (New Administrative Regulation)

5 401 KAR 51:230. CAIR SO<sub>2</sub> trading program.

6 RELATES TO: KRS 224.10-100, 224.20-100, 224.20-110, 224.20-120, 40 C.F.R.  
7 51.124, 51.125, 73, 74, 77, 78, Part 96, 42 U.S.C. 7410

8 STATUTORY AUTHORITY: KRS 224.10-100(5), 42 U.S.C. 7410

9 NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100(5) requires the  
10 Environmental and Public Protection Cabinet to promulgate administrative regulations  
11 for the prevention, abatement, and control of air pollution. This administrative regulation  
12 establishes the provisions of the CAIR SO<sub>2</sub> Trading Program as codified at 40 C.F.R.  
13 96.201 to 96.288 for applicable sources located in the Commonwealth of Kentucky.

14 Section 1. Applicability. This administrative regulation shall apply to CAIR SO<sub>2</sub>  
15 sources and CAIR SO<sub>2</sub> units under the CAIR SO<sub>2</sub> Trading Program located in Kentucky  
16 that are subject to 40 C.F.R. 96.204.

17 Section 2. Compliance requirements. CAIR SO<sub>2</sub> sources and CAIR SO<sub>2</sub> units  
18 shall comply with the following requirements:

19 (1) 40 C.F.R. 96.201 to 96.208 (Subpart AAA), "CAIR SO<sub>2</sub> Trading Program  
20 General Provisions";

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- 1           (2) 40 C.F.R 96.210 to 96.214 (Subpart BBB), "CAIR Designated Representative
- 2 for CAIR SO<sub>2</sub> Sources";
- 3           (3) 40 C.F.R 96.220 to 96.224 (Subpart CCC), "Permits";
- 4           (4) 40 C.F.R 96.250 to 96.257 (Subpart FFF), "CAIR SO<sub>2</sub> Allowance Tracking
- 5 System";
- 6           (5) 40 C.F.R 96.260 to 96.262 (Subpart GGG), "CAIR SO<sub>2</sub> Allowance Transfers";
- 7           (6) 40 C.F.R 96.270 to 96.276 (Subpart HHH), "Monitoring and Reporting"; and
- 8           (7) 40 C.F.R 96.280 to 96.288 (Subpart III), "CAIR SO<sub>2</sub> Opt-in Units".

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Date

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LaJuana S. Wilcher, Secretary  
Environmental and Public Protection Cabinet

**PUBLIC HEARING AND PUBLIC COMMENT PERIOD:** A public hearing on this administrative regulation shall be held on September 25, 2006, at 10:00 a.m. (local time) in the Conference Room of the Division for Air Quality at 803 Schenkel Lane, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) workdays prior to the hearing, of their intent to attend.

The hearing facility is accessible to persons with disabilities. Requests for reasonable accommodations, including auxiliary aids and services necessary to participate in the hearing, may be made to the contact person at least five (5) workdays prior to the hearing.

This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the hearing will be made. If you request a transcript, you will be required to pay for the transcript.

If you do not wish to be heard at the hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until October 2, 2006. Send written notification of intent to be heard at the hearing or written comments on the proposed administrative regulation to the contact person.

**CONTACT PERSON:** Gerry Ennis, Environmental Technologist III, Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601, phone number (502) 573-3382, fax number (502) 573-3787, and email: [gerry.ennis@ky.gov](mailto:gerry.ennis@ky.gov).

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

**Administrative Regulation #:** 401 KAR 51:230

**Contact Person:** Gerry Ennis

**(1) Provide a brief summary of:**

- (a) What this administrative regulation does:** This administrative regulation establishes the provisions of the Clean Air Interstate Rule (CAIR) SO<sub>2</sub> Trading Program, 40 C.F.R. 96.201 to 96.288, for applicable sources in Kentucky. This administrative regulation will assist in mitigating interstate transport of SO<sub>2</sub> emissions.
- (b) The necessity of this administrative regulation:** The U.S. EPA is requiring 28 states and the District of Columbia to revise their State Implementation Plans (SIPs) to include control measures to reduce emissions of sulfur dioxides. Reducing the emissions of SO<sub>2</sub> will assist areas in achieving national ambient air quality standards.
- (c) How this administrative regulation conforms to the content of the authorizing statutes:** KRS 224.10-100(5) requires the cabinet to promulgate administrative regulations for the prevention, abatement, and control of air pollution. This administrative regulation is proposed to reduce SO<sub>2</sub> emissions.
- (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:** This administrative regulation will reduce SO<sub>2</sub> emissions resulting in the protection of human health and the environment.

**(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:**

- (a) How the amendment will change this existing administrative regulation:** This administrative regulation does not amend any existing administrative regulation.
- (b) The necessity of the amendment to this administrative regulation:** This administrative regulation does not amend any existing administrative regulation.
- (c) How the amendment conforms to the content of the authorizing statutes:** This administrative regulation does not amend any existing administrative regulation.
- (d) How the amendment will assist in the effective administration of statutes:** This administrative regulation does not amend any existing administrative regulation.

**(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation.**

Any stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine serving at any time, since the later of November 15, 1990 or the start-up of the unit's combustion chamber, a generator with nameplate capacity of more than 25 MWe producing electricity for sale.

- (4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment:**
- (a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation:** Each affected CAIR SO<sub>2</sub> unit will have to possess allocations sufficient to cover their emissions for each control period.
  - (b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):** The cost is an unknown entity.
  - (c) As a result of compliance, what benefits will accrue to the entities identified in question (3):** The public will benefit from this administrative regulation.
- (5) Provide an estimate of how much it will cost to implement this administrative regulation:**
- (a) Initially:** The cabinet will not incur any additional costs for the implementation of this administrative regulation.
  - (b) On a continuing basis:** There will not be any continuing costs for the implementation of this administrative regulation.
- (6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:** The cabinet's current operating budget will be used for the implementation and enforcement of this administrative regulation.
- (7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment.** No increase in fees or funding is necessary to implement the proposed administrative regulation.
- (8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees.** This administrative regulation does not establish, nor does it directly or indirectly increase any fees.
- (9) TIERING: Is tiering applied?** Yes. This administrative regulation applies to fossil-fuel-fired electric generating units producing more than 25 MWe for sale.

## FEDERAL MANDATE ANALYSIS COMPARISON

**Administrative Regulation #: 401 KAR 51:230**

**Contact person: Gerry Ennis**

- 1. Federal statute or regulation constituting the federal mandate.** The federal mandate is found at 40 C.F.R. 96.201 to 96.288 as published at 70 Fed. Reg. 25162 (May 12, 2005).
- 2. State compliance standards.** The state compliance standards are found in KRS 224.10-100, 224.20-100, 224.20-110, and 224.20-120.
- 3. Minimum or uniform standards contained in the federal mandate.** The federal mandate requires states to revise their State Implementation Plan to reduce the emissions of sulfur dioxides. This administrative regulation follows the established federal standards for the CAIR SO<sub>2</sub> Trading Program.
- 4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate?** No. The administrative regulation follows the federal regulation provisions and will impose no more stringent requirements than those required by the federal mandate.
- 5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements.** Stricter standards and requirements are not imposed.

## FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation No. 401 KAR 51:230

Contact Person: Gerry Ennis

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? No
2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? No known units, parts or divisions of state or local government will be impacted by this regulation.
3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 224.10-100(5), 40 C.F.R. 51.121, 51.122, 72.2, 75.1, 75.2, 75.4, 75.11 to 75.13, 75.17, 75.19, 75.20, 75.24, 75.70, 75.72, 75.74, 75.75, Part 96, 42 U.S.C. 7410
4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.
  - (a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This regulation generates no revenues. The proposed regulation would not affect revenues.
  - (b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This regulation generates no revenues. The proposed regulation would not affect revenues.
  - (c) How much will it cost to administer this program for the first year? The Division's operating budget continues as the source of funding for the implementation of this program.
  - (d) How much will it cost to administer this program for subsequent years? The proposed regulation will have no effect on costs for administering the program in subsequent years.

**Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.**

**Revenues (+/-):** There is no known effect on revenues.

**Expenditures (+/-):** There is no known effect on expenditures.

**Other Explanation:** There is no further explanation.